

Inventors: Targan et al.
Serial No.: 09/575,061
Filed: May 19, 2000
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The Examiner further alleges that the claims contain two patentably distinct species of the claimed invention: amino acid SEQ ID NO: 1 and amino acid SEQ ID NO: 3.

Applicants traverse the Election of Species Requirement for the reasons stated below. Nevertheless, in order to be responsive to the Office Action, Applicants reiterate the election of the claims of Group I, claims 1 to 11, as elected telephonically, and further elect with traverse the species SEQ ID NO: 1. The claims of Group I which read upon species SEQ ID NO: 1 are claims 1 to 11.

The Election of Species Requirement is traversed for the reasons which follow. Applicants submit that, while SEQ ID NO: 3 is patentably distinct from SEQ ID NO: 1, claims 1 to 11 are unified through the use of determining the presence or absence of anti-OmpC antibodies, for example, using an OmpC antigen such as SEQ ID NO: 1. In contrast, where an I-2 polypeptide such as one having substantially the amino acid sequence of SEQ ID NO: 3 is used (see claims 8 and 9), it is used *in addition to* an OmpC antigen, such as one having substantially the amino acid sequence of SEQ ID NO: 1. Applicants respectfully point to the language of claim 8, which recites "further comprising" determining the presence or absence of IgA anti-I-2 polypeptide antibodies. Thus, the second step recited in claim 8, which can be practiced, for example, with SEQ ID NO: 3, is separate from the step of determining the presence or absence of IgA anti-OmpC antibodies, for example, using SEQ ID NO: 1.

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In sum, SEQ ID NOS: 1 and 3 are not related as species. Rather, SEQ ID NO: 1 is an exemplary OmpC antigen, and SEQ ID NO: 3 is an exemplary I-2 polypeptide. In view of these remarks, Applicants respectfully request that the Examiner reconsider the Election of Species requirement and examine the subject matter of Group I, claims 1 to 11, in its entirety.

II. CONCLUSION

Applicants appreciate the Examiner's reconsideration of the Election of Species requirement. The Examiner is requested to call the undersigned agent if the Election of Species Requirement is maintained or if there are any questions regarding this application.

Respectfully submitted,

September 14, 2001
Date

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